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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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27498	7590	12/02/2005	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN LLP			VAN DOREN, BETH	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			3623	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/853,889

Applicant(s)

RAZA, SAIYED ATIQ

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a non-final office action in response the communications received 06/17/05. In these communications, Applicant elects claims 1-14 and cancels claims 15-21. Claims 1-4 are now pending in this application.

Election/Restrictions

2. Applicant's election without traverse of Group I (claims 1-14) in the reply filed on 06/17/2005 is acknowledged.

Claim Objections

3. Claim 5 is objected to because it contain the improperly worded limitation "with similar of technical market orientation". For examination purposes, this limitation has been construed as --with similar technical or market orientation--. Correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 9, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by the National Business Incubation Association (www.nbia.org). These web pages were obtained from archive.org (Way Back Machine), which archived the pages applied on 1/17/1999 and 2/20/1999.

6. As per claim 1, the National Business Incubation Association teaches a method for structuring a group of companies comprising the steps of:

assembling a core foundry class including a group of core foundry individuals associated with a foundry entity, the core foundry individuals including at least one first core foundry individual for providing overall corporate management guidance, at least one second core foundry individual for providing technical expertise, at least one third foundry individual for providing marketing expertise and at least one fourth foundry individual for providing legal expertise (See page 1, section 1, page 3, section 2, page 4, sections 1-3, page 6, section 2, and page 7, section 1, which discusses the make-up of the groups of core foundry individuals (incubator individuals) who either own or are employed by the foundry (incubator). The core foundry individuals (incubator individuals) include individuals supporting overall corporate management guidance, technical expertise, marketing expertise, and legal expertise);

assembling a plurality of member companies for development by the foundry entity (See page 1, sections 1-3, page 3, section 1, page 5, section 1, and page 6, section 2, which discuss the companies supported by the foundry entity (incubator));

providing financial assistance from the foundry entity to each of the member companies (See page 1, section 1, and page 3, sections 1 and 2, wherein the foundry entity (incubator) provides financial backing to the company);

determining, for each of the member companies, areas of expertise that the member company does not have, including technical, marketing, and legal areas of expertise (See page 1, section 1, page 3, section 2, page 4, sections 1, 2, and 3, page 6, section 2, and page 7, section 1, which discusses determining for each company the area of expertise with which the company needs assistance, including technical, marketing, and legal areas);

assigning, for each member company in each area of expertise that the member company does not have, at least one individual from the core foundry class to assist in providing that expertise to the member company (See page 1, section 1, page 3, section 2, page 4, sections 1, 2, and 3, page 6, section 2, and page 7, section 1, which discusses tailoring the support given to a company by the foundry entity (incubator) based on the company's needs and assigning core foundry individuals to this company based on these support needs); and

growing a member company by providing active participation by each of the individuals in the core foundry class in each of the member companies to which the core foundry class individual has been assigned (See page 1, section 1, page 3, section 2, page 4, sections 1, 2, and 3, page 6, section 2, and page 7, section 1, which discusses proactive participation by the core foundry individuals (incubator individuals) in the company to which the support was assigned).

7. As per claim 4, the National Business Incubation Association teaches a method wherein each of the plurality of companies has a similar technical or market orientation (See page 1, section 3, and page 6, section 1, which discusses the foundry entity (incubator) choosing companies that fall within a targeted technical industry or technical area).

8. As per claim 9, the National Business Incubator Association discloses wherein one of the core foundry individuals initially sits on the board of directors for each of the member companies (See pages 3, section 3, and page 4, section 1, which discusses a foundry entity's (incubator's) commitment to building strong board of directors).

9. As per claim 10, the National Business Incubation Association teaches wherein when the services of one of the core foundry individuals is no longer needed by a particular company, reassigning the core foundry individual to assist another company in the field of expertise of the

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core foundry individual (See page 3, section 1, page 4, sections 1, 3, and 4, which discuss the service of the core foundry individual (incubator individual) being applied until no longer needed by the company (the developmental needs and services change). The core foundry individual (incubator individual) is a member of the foundry entity (incubator) and thus this individual is placed as the foundry entity (incubator) needs).

10. As per claim 12, the National Business Incubation Association teaches wherein the step of providing active participation includes assisting in the development of product specifications (See page 1, section 1, page 3, section 1 and 2, page 4, sections 3 and 4, and page 7, section 1, which discusses the foundry entity (incubator) helping the company to develop product specifications).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the National Business Incubation Association (www.nbia.org) in view of Taylor ("Region's business incubator hatch success").

13. As per claim 2, the National Business Incubation Association teaches a method further including the step of assembling an on-site management team to support the technical, management, legal, and marketing issues facing the company (See page 1, section 1, page 3, section 2, page 4, sections 1-3). However, the National Business Incubation Association does

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not expressly disclose that this on-site support team is a technical advisory board that is assembled by the foundry entity and the respective member company.

Taylor teaches a technical advisory board that is assembled by the foundry entity and the respective company (See page 2, section 2 and 3, which discusses an advisory board made up of the entrepreneur (company representative), people from the industry, supporting members from the foundry entity (incubator), etc.).

Both Taylor and the National Business Incubation Association disclose the determination of need in a startup company and the support given to these emerging companies to help them flourish in their startup phases. It would have been obvious to one of ordinary skill in the art at the time of the invention that the on-site management team of the National Business Incubation Association would function as a technical advisory board which is assembled by both the foundry entity (incubator) and the company in order to increase the chances of the company's success by enhancing the communication and the understanding of key business needs between the foundry entity (incubator) and the company by having both meet on the advisory board. See page 1, section 1, and page 4, of the National Business Incubation Association that discloses providing hands on management.

14. As per claim 3, the National Business Incubation Association teaches a method further including the step of assembling an on-site management team to support the technical, managerial, executive, legal, and marketing issues facing the company (See page 1, section 1, page 3, section 2, page 4, sections 1-3). However, the National Business Incubation Association does not expressly disclose that this on-site support team is a technical advisory board or the make-up of this technical advisory board.

Taylor teaches a technical advisory board that contains at least one member who is not employed by the foundry, not employed by the company, and has one of managerial and executive expertise in the industry being targeted by the company (See page 2, section 2 and 3, which discusses an advisory board including at least one member of the board being from the targeted industry, this member having the expertise needed by the startup company).

Both Taylor and the National Business Incubation Association disclose the determination of need in a startup company and the support given to these emerging companies to help them flourish in their startup phases. It would have been obvious to one of ordinary skill in the art at the time of the invention that the on-site management team of the National Business Incubation Association would function as a technical advisory board, this board including a prominent member of the targeted industry's community in order to increase the chances of the company's success by increasing the company's understanding of the industry that it will be entering. See page 1, section 1-2, and page 4, of the National Business Incubation Association that discloses industry specific guidance.

15. As per claim 5, the National Business Incubation Association discloses wherein the second core foundry individual has technical expertise, the foundry entity is targeted at a specific technical industry, and a plurality of other core foundry individuals with technical expertise (See page 1, section 1-3, page 3, section 2, page 4, sections 2-3, page 6, sections 1 and 2, and page 7, section 1, which disclose the second core foundry individual (incubator individual) having a background of technical expertise in a targeted industry foundry entity (incubator). There are multiple core foundry individuals (incubator individuals) with technical backgrounds in these target foundry entities (incubators)). However, the National Business Incubation Association

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does not expressly disclose that the technical expertise of the individuals is consistent with the similar technical orientations or the companies.

Taylor discloses that the technical expertise of the individuals is consistent with the similar technical orientations or the companies (See page 2, sections 2 and 3, wherein the technical expertise of the supporting professionals is of the industry of the company).

Both Taylor and the National Business Incubation Association disclose the determination of needs of a startup company in an industry niche and supports these needs using technical experts. It would have been obvious to one of ordinary skill in the art at the time of the invention that the technical expertise of the foundry individuals (incubator individuals) is consistent with the targeted industry of the foundry entity (incubator) of the National Business Incubation Association in order to increase the startup company's success by providing it with the best information and tactics in the industry it is entering. See page 1, sections 1-2, and page 4, of the National Business Incubation Association that discloses industry specific guidance.

16. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the National Business Incubation Association (www.nbia.org) in view of "Oakland High Tech Business Incubator Opens" (Business Wire).

17. As per claim 6, the National Business Incubation Association teaches a method wherein each of the plurality of companies has a similar technical orientation (See page 1, section 3, and page 6, section 1, which discusses the foundry entity (incubator) choosing companies that fall within a targeted technical industry or technical area). However, the National Business

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Incubation Association does not expressly disclose that the similar technical orientation is communications.

“Oakland High Tech Business Incubator Opens” teaches that the similar technical orientation is communications (See page 1, section 1, which discusses a high technology business incubator that focuses on communications technology).

Both “Oakland High Tech Business Incubator Opens” and the National Business Incubation Association teach foundry entities (incubators) assembling a plurality of companies to support that are of a similar technical background. It would have been obvious to one of ordinary skill in the art at the time of the invention to include communications as a technical industry for the targeted foundry entities (incubators) of the National Business Incubation Association in order to increase the probability of success for the companies produced by the foundry entity (incubator) by choosing industry niches that are at the forefront of the developing markets and that are the most financially viable, as stated on pages 2-3 of the National Business Incubation Association.

18. As per claim 7, the National Business Incubation Association teaches a method wherein each of the plurality of companies has a similar technical orientation (See page 1, section 3, and page 6, section 1, which discusses the foundry entity (incubator) choosing companies that fall within a targeted technical industry or technical area). However, the National Business Incubation Association does not expressly disclose that the similar technical orientation is broadband communications.

“Oakland High Tech Business Incubator Opens” teaches that the similar technical orientation is communications (See page 1, section 1, which discusses a high technology business incubator that focuses on communications technology).

However, while “Oakland High Tech Business Incubator Opens” discusses a range of products and services in the realm of communications being supported, it does not expressly disclose that communications is specifically broadband communications.

Both “Oakland High Tech Business Incubator Opens” and the National Business Incubation Association teach foundry entities (incubators) assembling a plurality of companies to support that are of a similar technical background. It would have been obvious to one of ordinary skill in the art at the time of the invention to include communications as a technical industry to be targeted by the foundry entities (incubators) of the National Business Incubation Association in order to increase the probability of success for the companies produced by the foundry entity (incubator) by choosing industry niches that are at the forefront of the developing markets and that are the most financially viable, as stated on pages 2-3 of the National Business Incubation Association.

Furthermore, broadband communications is old and well known in the communications arts. It would have been obvious to one of ordinary skill in the art at the time of the invention to include broadband communications as the technical industry to be targeted by the foundry entities (incubators) of the National Business Incubation Association in order to increase the probability of success for the companies produced by the foundry entity (incubator) by choosing industry niches that are at the forefront of the developing markets and that are the most financially viable, as stated on pages 2-3 of the National Business Incubation Association.

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19. As per claim 8, the National Business Incubation Association discloses a method wherein the second core foundry individual has technical expertise as do a plurality of other core foundry individuals (See page 1, section 1-3, page 3, section 2, page 4, sections 2-3, page 6, sections 1 and 2, and page 7, section 1, which disclose the second core foundry individual and a plurality of other individuals (incubator individual) having a background of technical expertise in a targeted industry foundry entity (incubator). The National Business Incubation Association further discloses that the incubators focus on specific technical industries on page 1, sections 2 and 3, and page 6, section 1). However, the National Business Incubation Association does not specifically discuss that individuals' backgrounds are in broadband communications.

"Oakland High Tech Business Incubator Opens" teaches that the similar technical orientation is communications (See page 1, section 1, which discusses a high technology business incubator that focuses on communications technology).

However, while "Oakland High Tech Business Incubator Opens" discusses a range of products and services in the realm of communications being supported, it does not expressly disclose that communications is specifically broadband communications.

Both "Oakland High Tech Business Incubator Opens" and the National Business Incubation Association teach core foundry individuals (incubator individuals) having expertise in areas that will assist the assemblage of companies. It would have been obvious to one of ordinary skill in the art at the time of the invention to include communications as a technical expertise of the core foundry individuals (incubator individuals) of the National Business Incubation Association in order to increase the probability of success for the companies produced by the foundry entity (incubator) by providing the companies with the best expertise

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available in their specific area. See page 1, sections 1-2, and page 4, of the National Business Incubation Association that discloses industry specific guidance.

Furthermore, broadband communications is old and well known in the communications arts. It would have been obvious to one of ordinary skill in the art at the time of the invention to include broadband communications as the technical expertise of the individuals of the foundry entities (incubators) of the National Business Incubation Association in order to increase the probability of success for the companies produced by the foundry entity (incubator) by providing the companies with the best expertise available in their specific area.

20. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the National Business Incubation Association (www.nbia.org).

21. As per claim 11, the National Business Incubation Association discloses a method wherein the step of providing active participation includes legal expertise (See page 1, section 1, page 3, sections 1 and 2, page 4, sections 2 and 3, and page 6, section 2, wherein the active participation includes legal expertise). However, the National Business Incubation Association does not expressly disclose negotiating licenses for one of the assigned companies.

Negotiating licenses is old and well known in the legal field. A new company needing to attain licenses to enter the market with a product and interact in that market is old and well known in the art. It would have been obvious to one of ordinary skill in the art that the legal expertise provided to the companies supported to market by the National Business Incubation Association would include negotiating licenses in order to increase the chances of success for a

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company when it leaves the foundry entity (incubator) by making the company freestanding and fully ready to enter the market upon its completion of time with the foundry entity (incubator).

22. As per claim 13, the National Business Incubation Association teaches a method wherein the step of providing active participation includes full technological support (See page 1, section 1, page 3, sections 1 and 2, page 4, sections 2 and 3, and page 6, section 2, wherein the active participation includes full technological support and expertise). However, the National Business Incubation Association does not expressly disclose implementing an integrated circuit using integrated circuit design tools.

Implementing an integrated circuit using integrated circuit design tools is old and well known in the engineering and technical arts. It would have been obvious to one of ordinary skill in the art to include implementing an integrated circuit using integrated circuit design tools when providing the technological support offered by the National Business Incubation Association in order to increase the effectiveness of the assistance offered companies of the foundry entity (incubator), thus creating a more viable company for market. See page 1, section 1, and page 4, of the National Business Incubation Association that discloses services and assistance offered.

23. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the National Business Incubation Association (www.nbia.org) in view of Prokoski (U.S. 2002/0046038).

24. As per claim 14, the National Business Incubation Association discloses a method wherein the step of providing active participation includes legal expertise (See page 1, section 1, page 3, sections 1 and 2, page 4, sections 2 and 3, and page 6, section 2, wherein the active participation includes legal expertise). However, the National Business Incubation Association

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does not expressly disclose licensing intellectual property among the foundry entity and a group of at least one member company to increase the group of members companies' chance of success in the marketplace.

Prokoski discloses licensing intellectual property among the foundry entity and a group of at least one member company to increase the group of members companies' chance of success in the marketplace (See abstract, paragraphs 0015, 0070, 0081, 0093, which discloses managing of the intellectual property by a third party to increase the chance in the market of the entity).

The National Business Incubation Association teaches core foundry individuals (incubator individuals) having expertise in areas, such as legal, that will assist the assemblage of companies. Prokoski discloses a third party that manages the Intellectual property of a newly emerging company, such as a startup company. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the legal individuals of the National Business Incubation Association manage the licensing of intellectual property in order to increase the stability in the market of newly emerging, innovative technologies of startup companies. See paragraph 0070 of Prokoski that discloses this motivation.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eisenhart (U.S. 2001/0047276) discloses collaboration and exchange between parties that share resources and further discloses protecting the intellectual property rights of such companies.

Chandler (U.S. 2002/0032599) teaches business incubation and the venture capital community in a web-centric framework.

Panitz ("Hatching successful businesses") discloses the fundamental concepts of an incubator.

McKenzie ("Incubator could help newborn businesses") teaches targeted incubators.

Radenhausen ("SI Handling founder wants to open business incubator") discusses providing business assistance (legal, accounting, management, marketing), technical services (developing products), and physical services to and emerging company.

Day ("How to nurture an idea into an enterprise") discloses the fundamental concepts of an incubator. He discusses the legal, marketing, management, and technical services provided a startup company.

Gearty ("Biz Incubators get Aid") discloses offering aid to companies, including offering the companies technical expertise.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 28, 2005

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